

Adopted Rejected

COMMITTEE REPORT

YES: 8
NO: 2

MR. SPEAKER:

Your Committee on Judiciary, to which was referred House Bill 1276, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 3, line 25, after "Sec. 3." insert "(a)".
- 2 Page 4, between lines 35 and 36, begin a new paragraph and insert:
- 3 **"(b) The institute shall seek grants and federal funds to**
- 4 **administer the program described in subsection (a)(22). The**
- 5 **program described in subsection (a)(22) may be implemented only**
- 6 **if the institute has sufficient funding to operate the program.**
- 7 SECTION 3. IC 8-1-19.5-6 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. As used in this
- 9 chapter, "human services" means services provided by government or
- 10 nonprofit organizations to ensure the health and well-being of Indiana
- 11 citizens. The term includes services designed to:
- 12 (1) provide relief or assistance after a natural or nonnatural
- 13 disaster; **and**
- 14 (2) **assist parents with stress issues.**
- 15 SECTION 4. IC 16-41-6-1, AS AMENDED BY P.L.125-2007,
- 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2010]: Sec. 1. (a) Except as provided in **IC 16-41-8-6**,
 2 IC 16-41-10-2.5, and subsection (b), a person may not perform a
 3 screening or confirmatory test for the antibody or antigen to HIV
 4 without the oral or written consent of the individual to be tested or a
 5 representative as authorized under IC 16-36-1. A physician ordering
 6 the test or the physician's authorized representative shall document
 7 whether or not the individual has consented. The test for the antibody
 8 or antigen to HIV may not be performed on a woman under section 5
 9 or 6 of this chapter if the woman refuses under section 7 of this chapter
 10 to consent to the test.

11 (b) The test for the antibody or antigen to HIV may be performed if
 12 one (1) of the following conditions exists:

13 (1) If ordered by a physician who has obtained a health care
 14 consent under IC 16-36-1 or an implied consent under emergency
 15 circumstances and the test is medically necessary to diagnose or
 16 treat the patient's condition.

17 (2) Under a court order based on clear and convincing evidence
 18 of a serious and present health threat to others posed by an
 19 individual. A hearing held under this subsection shall be held in
 20 camera at the request of the individual.

21 (3) If the test is done on blood collected or tested anonymously as
 22 part of an epidemiologic survey under IC 16-41-2-3 or
 23 IC 16-41-17-10(a)(5).

24 (4) The test is ordered under section 4 of this chapter.

25 (5) The test is required or authorized under IC 11-10-3-2.5.

26 (c) A court may order a person to undergo testing for HIV under
 27 IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

28 SECTION 5. IC 16-41-8-5, AS ADDED BY P.L.125-2009,
 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2010]: Sec. 5. **(a) This section does not apply to medical
 31 testing of an individual for whom an indictment or information is
 32 filed for a sex crime and for whom a request to have the individual
 33 tested under section 6 of this chapter is filed.**

34 ~~(a)~~ **(b)** The following definitions apply throughout this section:

35 (1) "Bodily fluid" means blood, human waste, or any other bodily
 36 fluid.

37 (2) "Dangerous disease" means any of the following:

38 (A) Chancroid.

- 1 (B) Chlamydia.
- 2 (C) Gonorrhea.
- 3 (D) Hepatitis.
- 4 (E) Human immunodeficiency virus (HIV).
- 5 (F) Lymphogranuloma venereum.
- 6 (G) Syphilis.
- 7 (H) Tuberculosis.

8 (3) "Offense involving the transmission of a bodily fluid" means
9 any offense (including a delinquent act that would be a crime if
10 committed by an adult) in which a bodily fluid is transmitted from
11 the defendant to the victim in connection with the commission of
12 the offense.

13 ~~(b)~~ (c) This subsection applies only to a defendant who has been
14 charged with a potentially disease transmitting offense. At the request
15 of an alleged victim of the offense, the parent, guardian, or custodian
16 of an alleged victim who is less than eighteen (18) years of age, or the
17 parent, guardian, or custodian of an alleged victim who is an
18 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney
19 shall petition a court to order a defendant charged with the commission
20 of a potentially disease transmitting offense to submit to a screening
21 test to determine whether the defendant is infected with a dangerous
22 disease. In the petition, the prosecuting attorney must set forth
23 information demonstrating that the defendant has committed a
24 potentially disease transmitting offense. The court shall set the matter
25 for hearing not later than forty-eight (48) hours after the prosecuting
26 attorney files a petition under this subsection. The alleged victim, the
27 parent, guardian, or custodian of an alleged victim who is less than
28 eighteen (18) years of age, and the parent, guardian, or custodian of an
29 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)
30 are entitled to receive notice of the hearing and are entitled to attend
31 the hearing. The defendant and the defendant's counsel are entitled to
32 receive notice of the hearing and are entitled to attend the hearing. If,
33 following the hearing, the court finds probable cause to believe that the
34 defendant has committed a potentially disease transmitting offense, the
35 court may order the defendant to submit to a screening test for one (1)
36 or more dangerous diseases. If the defendant is charged with
37 committing battery by body waste (IC 35-42-2-6), the court may limit
38 testing under this subsection to a test only for human

1 immunodeficiency virus (HIV). However, the court may order
2 additional testing for human immunodeficiency virus (HIV) as may be
3 medically appropriate. The court shall take actions to ensure the
4 confidentiality of evidence introduced at the hearing.

5 ~~(c)~~ **(d)** This subsection applies only to a defendant who has been
6 charged with an offense involving the transmission of a bodily fluid. At
7 the request of an alleged victim of the offense, the parent, guardian, or
8 custodian of an alleged victim who is less than eighteen (18) years of
9 age, or the parent, guardian, or custodian of an alleged victim who is
10 an endangered adult (as defined in IC 12-10-3-2), the prosecuting
11 attorney shall petition a court to order a defendant charged with the
12 commission of an offense involving the transmission of a bodily fluid
13 to submit to a screening test to determine whether the defendant is
14 infected with a dangerous disease. In the petition, the prosecuting
15 attorney must set forth information demonstrating that:

16 (1) the defendant has committed an offense; and

17 (2) a bodily fluid was transmitted from the defendant to the victim
18 in connection with the commission of the offense.

19 The court shall set the matter for hearing not later than forty-eight (48)
20 hours after the prosecuting attorney files a petition under this
21 subsection. The alleged victim of the offense, the parent, guardian, or
22 custodian of an alleged victim who is less than eighteen (18) years of
23 age, and the parent, guardian, or custodian of an alleged victim who is
24 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive
25 notice of the hearing and are entitled to attend the hearing. The
26 defendant and the defendant's counsel are entitled to receive notice of
27 the hearing and are entitled to attend the hearing. If, following the
28 hearing, the court finds probable cause to believe that the defendant has
29 committed an offense and that a bodily fluid was transmitted from the
30 defendant to the alleged victim in connection with the commission of
31 the offense, the court may order the defendant to submit to a screening
32 test for one (1) or more dangerous diseases. If the defendant is charged
33 with committing battery by body waste (IC 35-42-2-6), the court may
34 limit testing under this subsection to a test only for human
35 immunodeficiency virus (HIV). However, the court may order
36 additional testing for human immunodeficiency virus (HIV) as may be
37 medically appropriate. The court shall take actions to ensure the
38 confidentiality of evidence introduced at the hearing.

1 ~~(d)~~ **(e)** The testimonial privileges applying to communication
2 between a husband and wife and between a health care provider and
3 the health care provider's patient are not sufficient grounds for not
4 testifying or providing other information at a hearing conducted in
5 accordance with this section.

6 ~~(e)~~ **(f)** A health care provider (as defined in IC 16-18-2-163) who
7 discloses information that must be disclosed to comply with this
8 section is immune from civil and criminal liability under Indiana
9 statutes that protect patient privacy and confidentiality.

10 ~~(f)~~ **(g)** The results of a screening test conducted under this section
11 shall be kept confidential if the defendant ordered to submit to the
12 screening test under this section has not been convicted of the
13 potentially disease transmitting offense or offense involving the
14 transmission of a bodily fluid with which the defendant is charged. The
15 results may not be made available to any person or public or private
16 agency other than the following:

17 (1) The defendant and the defendant's counsel.

18 (2) The prosecuting attorney.

19 (3) The department of correction or the penal facility, juvenile
20 detention facility, or secure private facility where the defendant
21 is housed.

22 (4) The alleged victim or the parent, guardian, or custodian of an
23 alleged victim who is less than eighteen (18) years of age, or the
24 parent, guardian, or custodian of an alleged victim who is an
25 endangered adult (as defined in IC 12-10-3-2), and the alleged
26 victim's counsel.

27 The results of a screening test conducted under this section may not be
28 admitted against a defendant in a criminal proceeding or against a child
29 in a juvenile delinquency proceeding.

30 ~~(g)~~ **(h)** As soon as practicable after a screening test ordered under
31 this section has been conducted, the alleged victim or the parent,
32 guardian, or custodian of an alleged victim who is less than eighteen
33 (18) years of age, or the parent, guardian, or custodian of an alleged
34 victim who is an endangered adult (as defined in IC 12-10-3-2), and the
35 victim's counsel shall be notified of the results of the test.

36 ~~(h)~~ **(i)** An alleged victim may disclose the results of a screening test
37 to which a defendant is ordered to submit under this section to an
38 individual or organization to protect the health and safety of or to seek

1 compensation for:

- 2 (1) the alleged victim;
 3 (2) the alleged victim's sexual partner; or
 4 (3) the alleged victim's family.

5 (†) (j) The court shall order a petition filed and any order entered
 6 under this section sealed.

7 (†) (k) A person that knowingly or intentionally:

- 8 (1) receives notification or disclosure of the results of a screening
 9 test under this section; and
 10 (2) discloses the results of the screening test in violation of this
 11 section;

12 commits a Class B misdemeanor.

13 SECTION 6. IC 16-41-8-6 IS ADDED TO THE INDIANA CODE
 14 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 15 **UPON PASSAGE]: Sec. 6. (a) If an indictment or information**
 16 **alleges that the defendant compelled another person to engage in**
 17 **sexual activity by force or threat of force, the alleged victim of the**
 18 **offense described in the indictment or information may request**
 19 **that the defendant against whom the indictment or information is**
 20 **filed be tested for the human immunodeficiency virus (HIV).**

21 **(b) Not later than forty-eight (48) hours after an alleged victim**
 22 **described in subsection (a) requests that the defendant be tested for**
 23 **the human immunodeficiency virus (HIV), the defendant must be**
 24 **tested for the human immunodeficiency virus (HIV).**

25 **(c) As soon as practicable, the results of a test for the human**
 26 **immunodeficiency virus (HIV) conducted under subsection (b)**
 27 **shall be sent to:**

- 28 (1) the alleged victim;
 29 (2) the parent or guardian of the alleged victim, if the alleged
 30 victim is less than eighteen (18) years of age; and
 31 (3) the defendant.

32 **(d) If follow-up testing of the defendant for the human**
 33 **immunodeficiency virus (HIV) is necessary, the results of follow-up**
 34 **testing of the defendant shall be sent to:**

- 35 (1) the alleged victim;
 36 (2) the parent or guardian of the alleged victim if the alleged
 37 victim is less than eighteen (18) years of age; and
 38 (3) the defendant."

- 1 Page 5, line 11, delete "though" and insert "**through**".
- 2 Page 6, line 32, delete "require the department" and insert "**appoint,**
- 3 **or request a juvenile court to appoint, a court appointed special**
- 4 **advocate or guardian ad litem**".
- 5 Page 6, delete lines 34 through 42.
- 6 Page 7, delete lines 1 through 28, begin a new paragraph and insert:
- 7 "SECTION 7. IC 31-32-3-11 IS ADDED TO THE INDIANA CODE
- 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 9 1, 2010]: **Sec. 11. A court may appoint a court appointed special**
- 10 **advocate or guardian ad litem to facilitate a supervised visitation**
- 11 **as described in IC 31-25-2-22.**
- 12 SECTION 8. IC 33-24-6-3, AS AMENDED BY P.L.110-2009,
- 13 SECTION 12, AND AS AMENDED BY P.L.130-2009, SECTION 19,
- 14 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 15 [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The division of state court
- 16 administration shall do the following:
- 17 (1) Examine the administrative and business methods and systems
- 18 employed in the offices of the clerks of court and other offices
- 19 related to and serving the courts and make recommendations for
- 20 necessary improvement.
- 21 (2) Collect and compile statistical data and other information on
- 22 the judicial work of the courts in Indiana. All justices of the
- 23 supreme court, judges of the court of appeals, judges of all trial
- 24 courts, and any city or town courts, whether having general or
- 25 special jurisdiction, court clerks, court reporters, and other
- 26 officers and employees of the courts shall, upon notice by the
- 27 executive director and in compliance with procedures prescribed
- 28 by the executive director, furnish the executive director the
- 29 information as is requested concerning the nature and volume of
- 30 judicial business. The information must include the following:
- 31 (A) The volume, condition, and type of business conducted by
- 32 the courts.
- 33 (B) The methods of procedure in the courts.
- 34 (C) The work accomplished by the courts.
- 35 (D) The receipt and expenditure of public money by and for
- 36 the operation of the courts.
- 37 (E) The methods of disposition or termination of cases.
- 38 (3) Prepare and publish reports, not less than one (1) or more than

- 1 two (2) times per year, on the nature and volume of judicial work
 2 performed by the courts as determined by the information
 3 required in subdivision (2).
- 4 (4) Serve the judicial nominating commission and the judicial
 5 qualifications commission in the performance by the commissions
 6 of their statutory and constitutional functions.
- 7 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 8 (6) Administer the judicial technology and automation project
 9 fund established by section 12 of this chapter.
- 10 *(7) Develop a standard protocol for the exchange of information,*
 11 *by not later than December 31, 2009:*
- 12 *(A) between the protective order registry, established by*
 13 *IC 5-2-9-5.5, and county court case management systems;*
- 14 *(B) at the option of the county prosecuting attorney, for:*
- 15 *~~(i)~~ (i) a prosecuting attorney's case management system;*
 16 *~~(ii)~~ (ii) a county court case management system; and*
 17 *~~(iii)~~ (iii) a county court case management system developed*
 18 *and operated by the division of state court administration;*
 19 *to interface with the electronic traffic tickets, as defined by*
 20 *IC 9-30-3-2.5; and*
- 21 *(C) between county court case management systems and the*
 22 *case management system developed and operated by the*
 23 *division of state court administration.*
- 24 *~~(8)~~ (8) Establish and administer an electronic system for*
 25 *receiving information that relates to certain individuals who may*
 26 *be prohibited from possessing a firearm and transmitting this*
 27 *information to the Federal Bureau of Investigation for inclusion*
 28 *in the NICS.*
- 29 **(9) Report to the commission on courts established by**
 30 **IC 33-23-10-1 by September 1 of each year, regarding:**
- 31 **(A) the implementation of the judicial technology and**
 32 **automation project; and**
- 33 **(B) statistics compiled by the judicial technology and**
 34 **automation project regarding the number of dissolution of**
 35 **marriage decrees entered in Indiana for the previous year.**
- 36 (b) All forms to be used in gathering data must be approved by the
 37 supreme court and shall be distributed to all judges and clerks before
 38 the start of each period for which reports are required.

- 1 (c) *The division may adopt rules to implement this section.*
- 2 Page 8, line 10, after "convicted" delete "of" and insert "**of:**
- 3 **(1)**".
- 4 Page 8, line 11, delete "shall" and insert "**shall; and**
- 5 **(2) a crime that involved domestic abuse, neglect, or violence,**
- 6 **the court may;**".
- 7 Page 8, line 11, beginning with "require" begin a new line blocked
- 8 left.
- 9 Page 8, delete lines 32 through 35, begin a new paragraph and
- 10 insert:
- 11 "SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) Before May**
- 12 **1, 2010, the criminal justice institute shall notify the United States**
- 13 **Department of Justice concerning the passage of this act, including**
- 14 **IC 16-41-8-6, and certify, under 42 U.S.C. 3796hh, the provisions**
- 15 **of this act.**
- 16 **(b) This SECTION expires December 1, 2010.**
- 17 SECTION 18. **An emergency is declared for this act.**".
- 18 Re-number all SECTIONS consecutively.
- (Reference is to HB 1276 as introduced.)

and when so amended that said bill do pass.

Representative Lawson L